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Agenda item 13

Report of the Chair of the Legal and Technical Commission on the work of the Commission at its twenty-sixth session

Report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of its twenty-sixth session

Addendum

I. Introduction

1. The second part of the twenty-sixth session of the Legal and Technical Commission of the International Seabed Authority was held from 6 to 31 July 2020, in the form of online meetings. A total of 13 online meetings of the plenary of the Commission were held. Webinars for working groups set up by the Commission were held at the request of the facilitator or facilitators of each working group.
2. One member of the Commission did not attend any virtual meetings during the session.
3. It was agreed that, in view of the online format of the second part of the session, the Commission would follow a silence procedure with regard to decision-making, unless it decided otherwise.
4. The Commission successfully addressed many of the priority agenda items in its July meetings. The members of the Commission achieved that outcome by devoting considerable time and effort to online plenary meetings held three times per week and by holding several working group meetings throughout the four weeks of July, across widely varying time zones. Work on some agenda items is scheduled to continue intersessionally.

II. Activities of the contractors

A. Implementation of training programmes under plans of work for exploration and allocation of training opportunities

5. The Commission noted that, owing to the coronavirus disease (COVID-19) pandemic, many contractors faced significant challenges in implementing scheduled training, in particular with regard to training programmes involving selected candidates travelling from one country to another, such as at-sea training, internships

* Original dates. The meeting has been postponed *sin die*.



or laboratory training at the contractor's facilities, which have been suspended until the possibility of travel resumes. Those contractors therefore postponed or modified their training schedules accordingly, pursuant to discussion with the Authority. In that regard, the Commission encourages contractors to determine whether training and/or scholarships could be offered through remote learning and, if contractors are unable to offer such options, to engage with relevant academic institutions that do have the capacity to offer such a mode of training.

6. The Commission also suggests that contractors unable to implement their training programmes discuss with the Authority what other options might be possible, keeping in mind the recommendations for the guidance of contractors and sponsoring States relating to training programmes under plans of work for exploration ([ISBA/19/LTC/14](#)). The Authority and contractors should monitor the situation and adapt their training schedules accordingly, taking into consideration the expert guidance from relevant Member State health authorities and the World Health Organization.

B. Annual reports of contractors

7. During the second part of its twenty-sixth session, the Commission considered 29 annual reports on activities carried out by the contractors in 2019, submitted pursuant to section 10 of the standard clauses for exploration contracts. The Commission expressed its appreciation to the secretariat for a preliminary evaluation of the reports. Following previous practice, the Commission set up three working groups to review the geological and technological, legal, financial and training, and environmental aspects of the annual reports. In addition to specific comments on each report to be conveyed to the individual contractors by the Secretary-General, the Commission made a series of general comments, as set out below.

8. The Commission acknowledges the general improvements made by contractors in complying with the relevant template for reporting (see [ISBA/21/LTC/15](#), annex IV). Those improvements helped the Commission in conducting its review of the annual reports. In some cases, the Commission would recommend that the executive summary be more detailed. The Commission noted that most contractors had submitted their reports in a timely manner. For those few who were late, submitting their reports a week or two after the deadline, the Commission would remind them to ensure timely submission of annual reports in the future.

9. The Commission noted the expanding levels of international cooperation in which contractors were engaging, both with each other and with the secretariat of the Authority, as well as with academia. Such cooperation in 2019 included taxonomic standardization and the collaborative identification of fauna in images. The Commission welcomes progress in this area.

10. In relation to expenditure, the Commission noted that, as in previous years, some contractors had incurred far greater expenditure than expected, indicating an intensification of the activities undertaken. At the same time, however, the expenditure levels of a number of other contractors was far lower than predicted. Reasons for the lower expenditure were provided by some contractors. The Commission suggested that those contractors further report to the Secretary-General on how they would seek to recover potential delays that might result from unexpected events. Those who had not indicated the reasons for the lower expenditure are reminded that, where expenditure is lower than forecasted, those reasons should be provided, in particular where that lower expenditure was that the full programme of activities planned for the year had not been carried out.

11. The Commission noted that some contractors did not provide corresponding digital data files, indicating that the data would be provided after the publication of

research papers based thereon. As highlighted previously by the Commission, in line with the relevant regulations and recommendations issued by the Commission, such a situation did not preclude the obligation to report and transmit data to the Authority in accordance with the standard clauses for exploration contracts.

12. It was also noted that most contractors continued to make progress in the collection or analysis of baseline environmental data, analysing existing or new data and, in several cases, taking stock of previous data and undertaking a review of several years' worth of data collection that would support future sampling efforts. A number of contractors undertook limited environmental analyses and at-sea surveys in 2019 as compared with their proposed plans, as a result of equipment, technical and/or financial issues. Several contractors have adjusted their plans of work for 2020 to correct for those issues. It is as yet unclear what effects the COVID-19 pandemic will have on contractor plans for 2020.

13. The Commission was pleased to observe that a number of contractors had improved the quality of their survey design, sampling distribution and replication. There remain, however, ongoing questions about whether enough was being done for the baseline studies, across a range of environmental aspects, to assess natural spatial and temporal variability and about some differences in methodology or sampling equipment that could constrain analyses at the regional level.

14. The Commission noted that several contractors are well into, or approaching the end of, their initial contract or extension periods. It would be desirable to include in the annual reports a review of how the baseline data are building up to a level sufficient to support a robust environmental impact assessment. That need for a "gap analysis" aligns with the periodic review process; however, it is strongly recommended that contractors guide their future exploration programmes on the basis of the data needed to support future environmental impact assessment processes.

III. Consideration of an application for approval of a plan of work for exploration

15. On 4 June 2020, the Secretary-General received an application for the approval of a plan of work for exploration for polymetallic nodules in the Area from Blue Minerals Jamaica Limited. An executive summary of the application was made available as a document of the Commission ([ISBA/26/LTC/4](#)).

16. The Commission considered the application on 6, 7, 13, 14, 20, 21 and 23 July 2020, including in internal discussions following an initial presentation made by the applicant and in the light of responses received from the applicant to questions posed subsequently by the Commission. The Commission recommended the approval of the application and adopted its report and recommendations to the Council of the Authority in respect of the application ([ISBA/26/C/22](#)).

IV. Regulatory activities of the Authority

A. Outstanding issues with respect to the draft regulations on the exploitation of mineral resources in the Area

Potential impact of polymetallic nodules production from the Area on the economies of developing land-based producer States

17. The Commission took note of the report to the Authority on the study of the potential impact of polymetallic nodule production from the Area on the economies

of developing land-based producers of those metals which were likely to be the most seriously affected. The Commission agreed that the study provided a sound preliminary assessment of the economic impacts of polymetallic nodule production from the Area on those States. Areas for further study and consideration were also identified in the report. According to the report, the specific impacts on the economies of those States will be known once seabed mining production commences.

18. In that connection, and in the light of the importance of the matter and bearing in mind the fact that seabed mining may start in the foreseeable future, the Commission recommends that the Council consider the following actions:

(a) Continue to address the substantive issues identified in the study;

(b) Continue to give due consideration to the problems that may be faced by those developing land-based producer States which are likely to be the most seriously affected by seabed mining, with a view to minimizing any difficulties they may have and assisting them in their economic adjustment (Convention, art. 151, para. 10). The problems of those States will be, to a large extent, associated with their limited abilities to eliminate the effects of seabed mineral production on their export earnings or their economies and to control those effects. It is necessary to thoroughly assess those limitations, and any long-term remedial measures should take into account the elimination of those limitations;

(c) Initiate a process for establishing an economic assistance fund in accordance with paragraph 1 (a) of section 7 of the annex to the Agreement relating to the implementation of Part XI of the Convention (1994 Agreement), in the light of the call for a system of compensation or other measures of economic adjustment assistance, including cooperation with specialized agencies and other international organizations, in article 151, paragraph 10, of the Convention, with a view to assisting the developing land-based producer States identified as being likely to suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area. The establishment of such a fund should be in line with the principles of the 1994 Agreement for the provision of economic assistance to developing countries which suffer serious adverse effects on their export earnings or economies resulting from a reduction in the price of an affected mineral or in the volume of exports of that mineral, to the extent that such reduction is caused by activities in the Area. In accordance with paragraph 1 (a) of section 7 of the annex to the Agreement, only funds from payments received from contractors, including the Enterprise, and voluntary contributions shall be used for the establishment of the economic assistance fund;

(d) Continue, in an expeditious manner, the process of determining the rates of royalty payments to be received from contractors in order to be able to pre-assess the possible extent of the economic assistance fund for the affected developing land-based producer States.

19. The Commission recalls that section I, paragraph 4, of the annex to the 1994 Agreement provides that the functions of the Economic Planning Commission shall be performed by the Legal and Technical Commission until such time as the Council decides otherwise or until the approval of the first plan of work for exploitation. In that regard, and in the light of the study conducted, the Commission recommends that the Council consider whether the Economic Planning Commission should be operational before the approval of such a plan of work for exploitation, so as to be in a position to consider and study, in a structured and systematic way, the impacts on developing land-based producer States, including the substantive issues referred to in the previous paragraphs, and study the trends of and factors affecting the supply, demand and prices of materials which are derived from the Area, bearing in mind the

interests of both importing and exporting countries, and in particular of the developing States among them (Convention, art. 164, para. (2) (b)).

B. Development of standards and guidelines for activities in the Area

20. During the second part of the session, the Commission continued its consideration of the development of standards and guidelines for activities in the Area as a matter of priority.

21. On the basis of the work of the secretariat and the recommendations of the relevant working groups established by the Commission to consider various draft standards and guidelines, the Commission decided to issue, for stakeholder consultation during the intersessional period, the text of the following three sets of draft standards and guidelines (a) draft guideline on the preparation and assessment of an application for the approval of a plan of work for exploitation; (b) draft standard and guidelines on the development and application of environmental management systems; and (c) draft standard and guidelines on the form and calculation of an environmental performance guarantee.¹ The Commission will consider the outcome of the consultations at its next meeting.

22. The Commission decided to continue to work intersessionally on the development of the other standards and guidelines deemed necessary to be in place by the time of the adoption of the draft regulations on exploitation (see [ISBA/26/C/12](#)), with a view to also submitting them for stakeholder consultation in the intersessional period. Those include the standards and guidelines: (a) for environmental impact assessments and the preparation of an environmental impact statement; (b) for the preparation of environmental management and monitoring plans; (c) for the safe management of mining operations; (d) on the expected scope and standard of baseline data collection; and (e) for the preparation and implementation of emergency response and contingency plans.

V. Review of the implementation of the environmental management plan for the Clarion-Clipperton Fracture Zone and development of regional environmental management plans

A. Review of the implementation of the environmental management plan for the Clarion-Clipperton Fracture Zone

23. The Commission made progress on the review of the implementation of the environmental management plan for the Clarion-Clipperton Fracture Zone, including updates by a working group on the scientific background and rationale for establishing additional areas of particular environmental interest. The Commission decided to continue its work intersessionally, with a view to formulating recommendations to the Council at its next meeting.

¹ See www.isa.org.jm/stakeholder-consultations-draft-standards-and-guidelines-support-implementation-draft-regulations.

B. Organization of additional workshops on the development of regional environmental management plans, including scientific and technical preparation in support thereof

24. The Commission noted that online workshops were scheduled from 26 October to 6 November 2020 for the north-west Pacific region and from 23 November to 4 December for the northern Mid-Atlantic Ridge. The Commission also noted that the Government of India had advised the secretariat of its plan to host the workshop on regional environmental management plans for the Indian Ocean triple junction ridge and nodule-bearing province in March 2021 at the National Institute of Ocean Technology in Chennai.

C. Implementation of the decision of the Council concerning a standardized approach for the development, approval and review of regional environmental management plans in the Area (ISBA/26/C/10)

25. The Commission also made progress in considering possible ways to address issues relating to the development, approval and review of regional environmental management plans, drawing on the two submissions made to the Council, and built on the preliminary discussion of the Commission in March 2020. The Commission decided to continue that work intersessionally, with a view to discussing the results of the intersessional work at its next meeting.

VI. Implementation of the data management strategy of the Authority

26. During the second part of the session, the Commission received updates on the progress made in the development and implementation of the database (DeepData) of the Authority and its management strategy. The Commission noted the progress made with regard to the loading of historic data, the redesign of the geological query layout, security updates, website analytics and the conductivity, temperature and depth module, as well as with regard to plans to improve user knowledge of DeepData through the hosting of a series of workshops and the publication of a user manual for the website.

27. The Commission also took note of the forthcoming workshop on DeepData, focused on its data management strategy, to be convened by the secretariat from 21 to 25 September 2020 through an online platform, and aimed at, inter alia: (a) developing a protocol for the submission of digital data by contractors when submitting annual reports, including appropriate cataloguing, referencing from annual reports and the creation of metadata; (b) reviewing proposed updates to the reporting templates (see [ISBA/21/LTC/15](#), annex IV); and (c) exploring potential collaboration on data exchange and sharing experiences on database management.

VII. Other matters

A. Implementation of the strategic plan of the Authority for 2019–2023

28. The Commission recalled that the Assembly, in its decision relating to the implementation of the strategic plan for the Authority for the period 2019–2023 ([ISBA/25/A/15](#) and [ISBA/25/A/15/Corr.1](#)), committed to the strengthening of existing working practices of the Authority, accordingly invited members of the

Authority and observers, as well as the organs of the Authority, to support the implementation of the strategic plan and the high-level action plan.

29. The Commission noted that, for the reporting period 2019–2020, it had been assigned certain responsibilities for 25 high-level actions, with 30 related outputs, as listed in annex II of the above-mentioned decision. In three cases, no specific output has been identified and therefore, the reporting specifically addresses the high-level action of interest (see high-level actions 2.2.1, 3.1.4 and 3.5.2). Accordingly, the total number of items identified for reporting purposes is 33.

30. The Commission is identified as the “organ responsible” for 11 items, an “associated organ” for 11 other items and a “coordinating organ” for the remaining 11 items. In order to reflect the different rates of completion for each output, in particular the fact that some outputs are recurring, two subcategories of progress status have been identified. One subcategory reflects the “ongoing” nature of some outputs, understood as requiring continuous attention and adjustments. The other subcategory reflects the fact that, in some cases, the output is to be reported against a specific reporting period or action; consequently, the status of completion is considered to be “achieved”. The status of completion of the high-level actions and associated outputs assigned to the Commission for the reporting period 2019–2020 is provided in annex I to the present report.

31. As at 31 May 2020, 54.5 per cent (18) of the high-level actions and outputs assigned had been completed, whereas 45.5 per cent (15) were still in progress. All outputs assigned for the reporting period under strategic directions 1 (“Realize the role of the Authority in a global context”), 8 (“Improve the organization performance of the Authority”) and 9 (“Commit to transparency”) have been completed. Further information and details on the work undertaken against all outputs have been compiled by the secretariat and are available online, at <https://isa.org.jm/files/files/documents/ISBA-26C-12Add1-AnnexIIFinal.pdf>.

B. Review of the environmental impact statement submitted by the Ministry of Earth Sciences of the Government of India

32. On 6 February 2020, the Secretary-General received an environmental impact statement from the Ministry of Earth Sciences of the Government of India relating to the proposed technical trials of a pre-prototype nodule collector in the Indian contract area of the Central Indian Ocean Basin. For its consideration of the issue, the Commission had before it a note by the secretariat on the review of the environmental impact statement (ISBA/26/LTC/5).

33. During the second part of the session, the Commission reviewed the environmental impact statement for completeness, accuracy and statistical reliability and recommended that the Secretary-General communicate to the contractor that, when the statement was incorporated into the programme of activities under the contract, the contractor take into account the suggestions outlined below. In that connection, the contractor was strongly encouraged to make improvements regarding the statistical reliability of the environmental impact statement by:

(a) Conducting a further evaluation of the main impacts expected from the specific activity to guide the focus of the impact assessment;

(b) Strengthening the monitoring programme (before and after) to ensure that it was structured to collect the key data types required to measure the impacts, including taking into account the spatial scale of the monitoring programme and the effectiveness of the impact reference zone and preservation reference zone approach (compared with a more localized gradient design approach);

(c) Enhancing the sampling plan so that it takes into account the main impacts, uses appropriate sampling gear to measure the required parameters, aligns the positioning of the sampling locations with the expected impacts (such as sediment plume) and presents sufficient replication to ensure statistical robustness and station density and to ensure useful results from the collector trials. A sampling design similar to the Indian Deep-sea Environment Experiment (INDEX) could be more informative.

34. The Commission also recommended that the contractor be requested to report, in the context of its annual report, on the manner in which it has taken into account the above suggestions.

C. Relinquishment by China Ocean Mineral Resources Research and Development Association of the area allocated under its exploration contract for polymetallic sulphides

35. On 26 March 2020, the China Ocean Mineral Resources Research and Development Association submitted a report with a list of relinquished cells and maps of the relinquished area to the secretariat in line with regulation 27 (2) of the regulations on prospecting and exploration for polymetallic sulphides in the Area ([ISBA/16/A/12/Rev.1](#), annex). On the basis of the technical review carried out by the secretariat, the Commission noted that the contractor had complied with its relinquishment obligations pursuant to the applicable regulations and the recommendations for the guidance of contractors on the relinquishment of areas under exploration contracts for polymetallic sulphides or cobalt-rich ferromanganese crusts ([ISBA/25/LTC/8](#)). The relinquished areas have reverted to the Area.

Annex I

**Status of completion of high-level actions and related outputs
assigned to the Legal and Technical Commission for the reporting
period 2019–2020**

<i>Strategic directions</i>	<i>Number of items relevant to the reporting period</i>	<i>Completed</i>		<i>In progress</i>	<i>On hold</i>	<i>Completion rate (percentage)</i>
		<i>Ongoing</i>	<i>Achieved</i>			
Strategic direction 1: realize the role of the Authority in a global context	1	1	–	–	–	100
Strategic direction 2: strengthen the regulatory framework for activities in the Area	4	1	1	2	–	50
Strategic direction 3: protect the marine environment	15	2	5	8	–	47
Strategic direction 4: promote and encourage marine scientific research in the Area	–	–	–	–	–	Not applicable
Strategic direction 5: build capacity for developing States	5	–	1	4	–	20
Strategic direction 6: ensure fully integrated participation by developing States	4	2	1	1	–	75
Strategic direction 7: ensure equitable sharing of financial and other economic benefits	–	–	–	–	–	Not applicable
Strategic direction 8: improve the organizational performance of the Authority	1	1	–	–	–	100
Strategic direction 9: commit to transparency	3	2	1	–	–	100
Total	33	9	9	15	–	54.5

Annex II

Status of implementation by the Legal and Technical Commission of the relevant high-level actions and related outputs for the reporting period 2019–2020

The status of implementation by the Legal and Technical Commission of the relevant high-level actions and related outputs for the reporting period 2019–2020 is available (in English only) at the following URL: <https://isa.org.jm/files/files/documents/ISBA-26C-12Add1-AnnexIIFinal.pdf>.
